

UNITED STATES OF AMERICA)
) CR 05-64
 V.)
 ANDRE JACOBS

In this action, on April 26, 2006, a jury convicted Defendant of violating 18 U.S.C. 111. On October 2, 2006, Defendant was sentenced to a term of imprisonment of 210 months, followed by a term of supervised release. Defendant filed a Motion to Vacate under 28 U.S.C. 2255 in 2009; the Motion was denied in 2011. In 2017, Defendant filed a second Section 2255 Motion, which was stayed and, ultimately, voluntarily dismissed.

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use it, that is determinative." Cradle v. United States, 290 F.3d 536, 538 (3d Cir.2002) (citations omitted).

In this case, Plaintiff's Petition seeks to challenge his career offender enhancement, on grounds that the simple assault and harassment convictions used to enhance his sentence did not meet the definition of "crime of violence," and that the aggravated assault conviction relied on was not final at the time and was later reversed. Such attacks are within the purview of Section 2255, and audita querela relief is inappropriate. Defendant's Petition is denied, without prejudice to Defendant to seek relief via an appropriate vehicle.¹

AND NOW, this 12th day of March, 2020, IT IS SO ORDERED.

BY THE COURT:



Donetta W. Ambrose, Senior Judge

¹ The Court further assumes that Defendant's counsel shall take all appropriate steps regarding admission to practice in this District prior to proceeding.